

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

16 FRONT STREET LLC AND
C. RICHARD COTTON

PLAINTIFFS

VS.

CIVIL ACTION NO. 1:14-CV-00183-DMB-DAS

MISSISSIPPI SILICON LLC AND
GARY C. RIKARD, EXECUTIVE
DIRECTOR OF THE MISSISSIPPI
DEPARTMENT OF ENVIRONMENTAL
QUALITY

DEFENDANTS

**DEFENDANT MISSISSIPPI SILICON LLC'S
MOTION FOR LITIGATION COSTS**

Pursuant to 42 U.S.C. § 7604(d), Defendant Mississippi Silicon LLC respectfully moves the Court for recovery of the litigation costs it incurred in successfully defending the groundless citizen suit brought against it under the Clean Air Act by Plaintiffs 16 Front Street LLC and C. Richard Cotton.¹ The grounds for this motion are set forth in the supporting memorandum filed along with the motion.

Respectfully submitted this 13th day of August, 2015.²

¹ MS Silicon has incurred, and by this motion seeks, approximately \$575,000 in litigation costs—including attorneys' fees—in this matter.

² Pursuant to Rule 54(d)(2)(B)(i), a motion for attorneys' fees is due "14 days after the entry of judgment." A "judgment" is "any order from which an appeal lies." Fed. R. Civ. P. 54(a). An appeal would likely not lie from the Court's July 30 order because claims remained pending against the other defendant in this case, Gary Rikard. *See Austracan (USA), Inc. v. M/V Lemoncore*, 500 F.2d 237, 240-41 (5th Cir. 1974) (refusing to hear appeal from order dismissing some, but not all, of the defendants for lack of jurisdiction). But MS Silicon files this motion within 14 days of the July 30 order in an abundance of caution to protect its right to seek fees.

s/ Peter Whitfield

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Attorneys for Defendant Mississippi Silicon LLC

CERTIFICATE OF SERVICE

I, Peter Whitfield, as one of the attorneys for Defendant Mississippi Silicon LLC, hereby certify that I have this day caused to be filed with the clerk of the court the foregoing pleading using the CM/ECF system, which shall send notification of such filing to all parties of record in this case.

Respectfully submitted this 13th day of August, 2015.

s/ Peter Whitfield
Peter Whitfield